



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0029; NHTSA-2019-0030; Notice 2]

Mack Trucks, Inc., and Volvo Trucks North America, Grant of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: Mack Trucks Inc., (Mack) and Volvo Trucks North America (Volvo) have determined that certain model year (MY) 2014-2019 Mack Trucks and certain MY 2014-2019 Volvo Trucks do not comply with Federal Motor Vehicle Safety Standard (FMVSS) 101, *Controls and Displays*. Both Mack and Volvo filed noncompliance reports dated August 16, 2018, and later amended them on August 23, 2018, and June 2, 2019. Both Mack and Volvo subsequently petitioned NHTSA on October 9, 2018, and later amended their respective petitions on May 29, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces grant of both Mack and Volvo's petitions.

FOR FURTHER INFORMATION CONTACT: John Finneran, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5289, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview:

Mack and Volvo have determined that certain MY 2014-2019 Mack Trucks and that certain MY 2014-2019 Volvo Trucks do not comply with Table 2 of FMVSS 101, *Controls and Displays* (49 CFR 571.101). Both Mack and Volvo filed noncompliance reports dated August

16, 2018, and later amended them on August 23, 2018, and June 2, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Both Mack and Volvo subsequently petitioned NHTSA on October 9, 2018, and later amended their petitions on May 29, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Mack's and Volvo's petitions was published with a 30-day public comment period on August 21, 2019, in the **Federal Register** (84 FR 43663). No comments were received.

II. Vehicles Involved:

Approximately 95,000 MY 2014-2019 Mack Anthem, Granite, LR, Pinnacle, TerraPro, and Titan Trucks, manufactured between September 1, 2013, and August 13, 2018, are potentially involved.

Approximately 130,000 MY 2014-2019 Volvo VAH, VHD, VNL, VNM, VNR VNX, and VT Trucks, manufactured between September 1, 2013, and August 13, 2018, are potentially involved.

III. Noncompliance:

Mack and Volvo explained that the noncompliance is that the Low Brake Air Pressure telltale for air brake systems does not display the words "Brake Air," as specified in Table 2 of FMVSS No. 101. The subject Mack vehicles include various combinations of low air telltales, pressure gauges, and available alerts, and the subject Volvo vehicles include both visual and audible warnings that are not an exact match to the "Brake Air" telltale requirement.

IV. Rule Requirements:

Paragraphs S5 and S5.2.1 of FMVSS No. 101 include the requirements relevant to these petitions. Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2 must meet the requirements of FMVSS No. 101 for the location, identification, color, and illumination of that control, telltale or indicator.

Each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.

V. Summary of Petition:

Mack and Volvo both described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

Mack and Volvo submitted the following views and arguments in support of the petitions:

1. Both Mack and Volvo provide a visual and audible alarm along with air pressure gauges and feel that their vehicles, even though non-compliant, meet the intent of the regulation to provide a clear and visible warning to the driver when the air pressure in the service reservoir system is below 60 psi.
2. For Mack Granite, Pinnacle, and Titan model vehicles that are 2018 and earlier, the display includes two gauges and a red low air pressure indicator lamp for each gauge. When a low air pressure situation occurs, the driver is warned through the gauge, a red indicator lamp in each gauge, and an audible warning.

3. For Mack LR model vehicles, two pressure gauges, a low air telltale, a popup in the display, and an audible alarm are provided.
4. For Mack TerraPro model vehicles, pressure gauges, a low air telltale, and an audible alarm are provided.
5. In 2019 and later Anthem, Pinnacle, and Granite model vehicles, pressure gauges, a low air pressure pop-up (System Air Pressure is Low), and an audible alarm are provided.
6. For Volvo, 2014–2019 models, the display includes two gauges and a red low air pressure indicator lamp for each gauge. When a low air pressure situation occurs, the driver is warned through the gauge, a red indicator lamp in each gauge, and an audible warning. On all models and model years, a pop-up (Low System Air Pressure) is provided in addition to the gauges, a low-pressure indicator, and an audible alarm.

Both Mack and Volvo concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that their petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Consideration:

Any manufacturer that determines a noncompliance to exist and intends to petition the agency, pursuant to 49 CFR part 556.4(c), must submit their petition no later than 30 days after such determination. Both Mack and Volvo submitted their petitions 25 days past the 30-day requirement. However, due to the nature of the noncompliance and considering that the agency

has previously granted similar inconsequential noncompliance petitions, in this case, the agency has decided to accept both Mack and Volvo's petitions.

VII. NHTSA's Analysis:

NHTSA has considered the arguments presented by Mack and Volvo and has determined that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA believes that the subject noncompliance poses no risk to motor vehicle safety for the reasons discussed below:

1. When a low air pressure situation exists, each vehicle has a low system air pressure indicator illuminated in red with a black background. There are no requirements in FMVSS No. 101 for the color of the telltale but the petitioner's use of red, which is an accepted color representing an urgent condition, provides a definitive indication of a situation that needs attention.
2. Simultaneous to the illumination of the low system air pressure indicators is activation of an audible alert, further notifying the operator that a malfunction exists, requiring corrective action. Although the alert would not, in and of itself, identify the problem, a driver would be prompted by the warning tone to heed the other indicators.
3. In a low-pressure situation, the operator is provided additional feedback by the primary and secondary instrument cluster air gauges which are marked with numerical values in PSI units with red shading denoting the low-pressure range.
4. The Agency believes that the functionality of the parking brake system and the braking performance of the service brake system remain unaffected by the use of multiple different indicators and audible alerts instead of the words "Brake Air" on the subject vehicles.

5. Lastly, NHTSA believes that, as the affected trucks are predominately used as commercial vehicles with professional drivers, operators will monitor their vehicle's condition and take note of any warning signs and gauge readings to ensure proper functionality of all systems. Also, professional drivers will become familiar with the meaning of the telltales and other warnings and the feedback provided to the driver in these vehicles, if a low brake pressure condition exists, would be well understood.

NHTSA concludes that simultaneous activation of the red low air pressure indicators, an audible alert for a low air pressure condition, along with the primary and secondary air gauge indicators, provide adequate notification to the operator that a brake malfunction exists.

VIII. NHTSA's Decision:

In consideration of the foregoing, NHTSA finds that Mack and Volvo have met their burden of persuasion that the FMVSS No. 101 noncompliance is, in each case, inconsequential as it relates to motor vehicle safety. Accordingly, Mack and Volvo's petitions are hereby granted, and they are exempted from the obligation to provide notification of and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicle that Mack and Volvo no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on

the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mack and Volvo notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2019-26685 Filed: 12/10/2019 8:45 am; Publication Date: 12/11/2019]